

Regular Meeting: Planning Commission Committee

Location: City Hall, Council Chambers, 515 2nd Avenue SW, City of Minot, ND

Meeting Called to Order: February 29, 2016 at 6:30 p.m.

Presiding Official: Chairman John Zimmerman

City Clerk: Kelly Matalka

Members in Attendance: Wallace Berning, Jody Bullinger, Jon Hanson, Larry Holbach, Brenden Howe, Pam Karpenko, Todd Koop, Kevin Mehrer, Tyler Neether, Todd Wegenast, Travis Zabloutney, John Zimmerman

Members Absent: Bob Wetzler

City Staff Present: Asst. City Planner, City Manager, Asst. City Attorney, City Engineer, Chief Resilience Officer, Assistant City Engineer/Acting Planning Director, Public Works Director, Asst. Public Works Director; Police Chief, Fire Chief.

Others Present: Aldermen Connole, Hatlelid, Jantzer, Schuler, Olson, Shomento, and others.

Meeting Called to order by Chairman Zimmerman

Approval of the January 25, 2016 Regular Meeting Minutes with a correction that Todd Wegenast abstained from the approval of the November 30, 2015 minutes.

Motion by Neether, seconded by Koop, to approve the January 25, 2016 regular meeting minutes with a correction that Todd Wegenast abstained from the approval of the November 30, 2015 minutes, and was carried by the following roll call vote: ayes: Berning, Bullinger, Hanson, Holbach, Howe, Karpenko, Koop, Mehrer, Neether, Wegenast, Zabloutney, Zimmerman. nays: none

Motion passed

RECOMMENDATIONS

Approval of Agenda Items (2 & 6) included in the Consent Agenda.

Motion by Karpenko, seconded by Koop, to approve consent items with staff finding of fact(s) and condition(s); and was carried by the following roll call vote: ayes: Berning, Bullinger, Hanson, Holbach, Howe, Karpenko, Koop, Mehrer, Neether, Wegenast, Zabloutney, Zimmerman. nays: none

Motion passed.

Item # 1:

The Planning Commission approved an appeal by Jesse Braun for a variance to the front yard setback from the required 40' on a minor arterial to approximately 25' on 16th St NW for the purpose of building a shop on Blaisdell Bird Addition, Block 11, Lot 2.

This property is located at 405 16th St NW

Conditions: (if approved)

1. Relinquishing the right-of-way access and the removal of the existing driveway along 16th Street NW will be required. A right-of-way permit from the City and restoration of the boulevard would be required.
2. Sidewalks will need to be repaired if damaged.
3. Public Utility Fees and appropriate construction permits will be required.
4. 10% of the property must have landscaping to meet the required minimum landscaping.

Finding of Fact:

1. Subject property is zoned C1, Neighborhood Commercial.
2. The request for a variance meets the general intent of Section 30-2.
3. The proposed use is in compliance with the Comprehensive Plan.

Jesse Braun came before the Commission and stated the proposed property will be an office building for client contact and lighting displays as well as interior storage for his business, Jesse Braun Electric, LLC.

Upon questioning by Commissioner Zabloutney as to what has changed since the request was denied before, the acting Planning Director stated there was a misinterpretation when the property was previously denied. After further discussion with Mr. Braun, his proposal does align as a conforming use for the C1 zone.

Chairman Zimmerman stated the area didn't have long term thought out zoning so it is now on a case by case basis by looking at the neighborhood and the part of town. He continued by saying the applicant is here for approval for the variance setback as it has already been determined that it is a conforming use.

Commissioner Zabloutney questioned whether or not staff was enforcing the zoning ordinance, to which the Acting Planning Director stated, the variance was denied before based on the property being a shop. The request for a variance meets the general intent of Section 30-2.

Upon questioning by Commissioner Neether, the Acting Planning Director stated the setback is legal on the north side of the property and the only thing he needs is approval for the setback of the variance along 16th Street NW.

Commissioner Zabloutney stated it is a misfit building in a residential commercial area, not an industrial area.

Whereupon a vote was taken on the motion by Wegenast, seconded by Neether, to approve the appeal with staff finding of fact(s) and condition(s); and was carried by the following roll call votes: Bullinger, Holbach, Karpenko, Koop, Mehrer, Neether, Wegenast, Zimmerman. nays: Berning, Howe, Zabloutney, abstain: Hanson

Motion passed.

Item #2: As part of a consent motion, it is recommended

The City Council pass a motion to approve a request by Oxford Real Estate Equities, LLC, represented by Bruce Danly, to subdivide Broadway Center 1st Addition, Block 1, Lot 5 into two lots to be known as Broadway Center 2nd Addition, Lots 1 & 2.

This property is located at 3425 S. Broadway.

Finding of Facts:

1. Subject property is zoned C2, General Commercial District.
2. Proposed subdivision meets lot size requirements.

Motion by Karpenko, seconded by Koop, to approve consent items with staff finding of fact(s); and was carried by the following roll call vote: ayes: Berning, Bullinger, Hanson, Holbach, Howe, Karpenko, Koop, Mehrer, Neether, Wegenast, Zablotney, Zimmerman. nays: none

Motion passed.

Item # 3:

The City Council introduce an ordinance on first reading to approve a request by Dan & Irene Keller to change the zone from R2 (Two-Family Residential) District to R1 (Single Family Residential) District for the purpose of bringing the property into compliance for a rear yard setback for an existing deck on Centennial Addition, Lots 15A & 15B.

This property is located at 1402 17½ Ave SW.

Finding of Facts:

1. Subject property is zoned R2, Two-Family Residential District.
2. The request to rezone would bring property into compliance with the R1, Single-Family Residential District.
3. Section 30-5, intent of land use and the required information for Planning Commission consideration of the zoning ordinance have been met.

Commissioner Zimmerman stated he received some questions from some neighbors of the property. They asked what the current distance is from the structure to the rear property line. The Acting Planning Director responded by saying the deck did not meet the requirements before but after the applicant removed a portion of the deck, it is now ten feet from the property line. According to Section 21-d-5 of the zoning ordinance, a structure may project beyond the eaves into the rear yard setback, which in R1 is 20', as long as it does not exceed ten feet into the setback. If the zone is changed to R1, then it would be in compliance with that zone.

The second question was answered by the City Engineer who stated there is not a drainage plan as R1 and R2 properties are exempt from the storm water management plan.

Motion by Neether, seconded by Koop, to approve the item with staff finding of fact(s) and was carried by the following roll call vote: ayes: Berning, Bullinger, Hanson, Holbach, Howe, Karpenko, Koop, Mehrer, Neether, Wegenast, Zablotney, Zimmerman. nays: none

Motion passed.

Item # 4:

The City Council adopt a resolution to approve a request by Community Medical Service, represented by Andy Lewis, for a Conditional Use Permit to allow an Opioid Treatment Clinic in a C2 (General Commercial) District on Linha's 5th Addition, Lot 1.

This property is located at 300 30th Ave NW, Unit D.

Finding of Fact:

1. Subject property is zoned C2, General Commercial.
2. Section 11- 4 e), the request is allowed with a Conditional Use Permit.
3. Section 30-3 a) and d) Intent of land use and the required information for Planning Commission consideration of the zoning ordinance have been met.

Commissioner Zablotney asked whether or not this issue has been considered by City Council to determine if the type of facility is allowed in the City.

Chairman Zimmerman stated, for this agenda item, Planning Commission is there to decide the item on the agenda as presented by the applicant, not to determine citizen's views on the nature of the business. The City Council, which is a representation of the citizens, will make a decision based on the findings brought to them.

The Assistant City Planner responded by saying, the issue came up in 2014 and after the Police Department and City Attorney did the proper research, opioid treatment clinic was added to the list of acceptable businesses in a C2 zone. It has not yet had the opportunity to be presented to Council as it has run into issues with parking and needs to first have that approved by the Planning Commission.

The City Manager added that a one year moratorium was imposed in October 2014 in order to gather more information on the subject. After much research and several public meetings, an ordinance was developed that would be fair and would apply to any clinical facility in the City. The next step is to find a proper location that meets all of the requirements, then it will be discussed in front of the City Council.

Nick Stavros, a representative of Community Medical Services, appeared before the Commission. He stated the importance of this nationwide priority. The response of treatment has not paralleled the increase in deaths occurring across the country, particularly because of cities and states preventing facilities from opening. He brought handouts listing statistics behind opioid abuse on a state and national level in support of the need for a clinic in Minot. He stated, North Dakota is one of only two states in the country without an opioid treatment facility despite having three of the top ten fastest growing cities in the country.

Chairman Zimmerman called a recess at 7:14 pm due to a medical emergency. The Commission reconvened at 7:33 pm with the following roll call: Berning, Bullinger, Hanson, Holbach, Howe, Karpenko, Koop, Mehrer, Neether, Wegenast, Zaboltney, Zimmerman

At the direction of Chairman Zimmerman, Mr. Stavros gave a brief summary of the steps Community Medical Service has taken in this process so far. He stated, the need for a clinic in North Dakota was determined two and a half years ago. The company made contact with the State and the Department of Health and Human Services and went through the extensive process to site a property located on Broadway. At that point the City issued the moratorium but Community Medical Services kept the property for over a year. They attended numerous meetings with City staff and held several public forums to address concerns. It was determined the property on Broadway was an ineligible location for the clinic. They found other possible locations but parking has been an issue with each one of them, which is why, he concluded, they are looking for approval for the Conditional Use Permit.

Chairman Zimmerman requested that Mr. Stavros address some of the top concerns among those opposing this type of clinic. He stated the number one concern is that the clinic will bring drug addicts and crime to the community, to which he rebutted, statistics show a decrease in crime around a treatment center and stated it is more likely for a convenience store to attract crime than a clinic. The second concern he mentioned was regarding increased traffic. He used their current clinic in Billings, MT as an example that there was no significant increase in traffic. He also stated there are other treatment centers proposed in Bismarck and West Fargo so Minot would not necessarily receive traffic from all over the state. The third concern he mentioned was the negative attitude toward patients but he responded by saying it is a voluntary clinic and patients are there seeking help.

Chairman Zimmerman called upon City Council President, Jantzer to elaborate on City Council's process on the subject so far. President Jantzer stated, they initially did not have adequate information to make a decision on the topic so they enacted the one year moratorium. He stated that what the Planning Commission needs to decide on tonight are zoning requirements to ensure that the location selected is in compliance with the zoning ordinance.

Commissioner Zaboltney asked for clarification on whether the City Council has voted to allow the facility to which Chairman Zimmerman responded by saying the applicant is applying for a Conditional Use Permit. The application has been vetted by city staff and a recommendation has been made. After the Planning Commission makes a decision on the conditional use permit, then it will go to Council for review.

The Assistant City Planner stated there is no reason to prevent this use according to the zoning ordinance. The Commission cannot deny a business with a right to exist.

Commissioner Neether asked the Assistant City Attorney to read the definition of a "clinic" as written in the ordinance, to which she responded; "an establishment where outpatients obtain medical examination, medical treatment, or medical advice, and/or employees of the establishment disperse medication to outpatients. This definition includes, but is not limited to, medical clinics, eye clinics, dental clinics, and opioid treatment centers"

Chairman Zimmerman called upon Chief Olson to describe the research he had done regarding the other facilities he has visited and police departments he has contacted. Chief Olson explained that he attended meetings with the Department of Health, has listened to treatment professionals and understands there is a need for such a clinic to an extent that the legislature has changed the North Dakota Century Code to allow such facilities to exist. Chief Olson contacted the Chief of Police in Kalispel, MT, who was unaware that a facility was located in the area and had no concerns regarding increased crime. He described his experience observing operations in Billings, MT. He stated, it is in a strip mall near several other businesses in the neighboring blocks. He witnessed an average of 10-15 patients at a time, with each visit taking about 30-45 minutes. He said, when he spoke to the neighboring businesses that they didn't have anything negative to say about the clinic, if they were aware of the clinic at all.

Upon questioning by Chairman Zimmerman, as to whether this type of facility is warranted in Minot, Chief Olson replied that heroin seizures and illegal drug possession have increased significantly so the demand for such a facility seems apparent. He stated he is not an expert on the treatment of drug addiction but believes it is unlikely to have a negative impact on the community and may provide viable treatment.

Upon questioning by Commissioner Berning about the hours of operation, Mr. Stavros stated that nationally, average hours are 5am-11am in order for their patients to make an appointment before going to work. He also answered that Community Medical Service is funded through Medicaid, insurance and privately.

Carolyn Bodell, of 1625 12th St SW, asked if there were notifications sent to the properties near the location, to which the Acting Planning Director stated, notifications were sent to properties within a 300 foot radius and it was also published in the newspaper. She clarified, twelve notifications were sent and City staff spoke with one company, MLT, in response to concerns.

Commissioner Zabloutney asked what the parking requirement is for the property. The Acting Planning Director referred him to the documentation supplied by City staff which shows a requirement of 31 spaces and a map of the location which shows 34 provided spaces. She continued by saying, the amount of parking is adequate based on the ordinance and if necessary, there is a code enforcement officer to handle future disputes.

Whereupon a vote was taken on the motion by Wegenast, seconded by Neether, to approve the item with staff finding of fact(s) and was carried by the following roll call vote: ayes: Hanson, Holbach, Karpenko, Koop, Mehrer, Neether, Wegenast, Zimmerman. nays: Berning, Bullinger, Howe, Zabloutney

Motion passed

Item #5:

The Planning Commission held a request by JRJ Land Holding, LLC- Mr. Kovach, represented by Buell Consulting, Inc., - Brandon St. Michael, to amend a Conditional Use Permit approved on March 2nd, 2015, to replace 12' x 30' Shelter with internal generator with up to four (4) outdoor equipment cabinets on a platform with an external generator on Minot Prairie Industrial Park, Block 1, Lot 1.

This property is located at 410 74th St SE.

Finding of Facts:

1. The subject property is zoned M1, Light Industrial.
2. The proposed tower would have additional space available for co-locating.
3. The proposed tower will be designed, constructed, operated, and maintained to be compatible in appearance with the existing or intended character of that area.

Conditions:

1. The proposed 80' antenna will need to meet section 31-6 of the Zoning Ordinance and be approved by the Planning Department.
2. Applicant shall secure FAA approval prior to issuance of permits.
3. The applicant shall provide future cooperative co-location opportunities to improve service or to lease to other providers.
4. All standard set forth under CUP must be addressed by the applicant.

Dave Fischer, a representative from Buell Consulting, Inc., explained they would like to replace a shelter with outdoor equipment cabinets and a generator with a 159' tower. He also asked if the Commission could remove the requirement for paving the gravel road.

The Acting Planning Director stated, the submitted application indicates an 89' tower, not 159'.

After consulting with an associate and comparing drawings, it was decided they would gather more information and return for the next meeting.

Motion by Wegenast, second by Neether, to hold the item until the next Planning Commission meeting on March 28th; and was carried by the following roll call votes: ayes: Karpenko, Berning, Bullinger, Hanson, Koop, Holbach, Howe, Wegenast, Neether, Zabloutney. nays: none. Abstain: Zabloutney

Motion passed.

Item # 6: As part of consent motion, it is recommended:

The City Council introduce an ordinance on first reading to approve a request by the City of Minot represented by Andy Solsvig to change the zone from R1 (Single-family) District to P (Public) on Section 7-155-82, Outlot 1.

Also, the Planning Commission approved a Public Plan Review on Section 7-155-82, Outlot 1.

This property is located south of 30th Ave NE and west of 27th St NE.

Finding of Facts:

1. The property is zoned R1, Single-Family Residential, and a zone change to P, Public, is pending.
2. Any proposed use or change of use of land or building by any public agency, or others on public land shall be submitted to the Planning Commission for review and approval.

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Motion by Karpenko, seconded by Koop, to approve consent items with staff finding of fact(s); and was carried by the following roll call vote: ayes: Berning, Bullinger, Hanson, Holbach, Howe, Karpenko, Koop, Mehrer, Neether, Wegenast, Zabolney, Zimmerman. nays: none

Motion passed.

Meeting adjourned at 8:58 pm.